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February 8, 2021

THE RISING COST OF RECLAIMING KENTUCKY

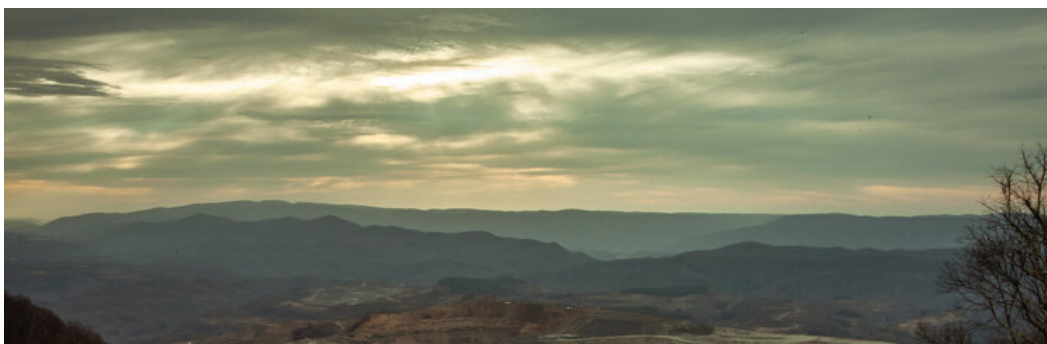
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BY: BRENT HOUSE

Once a prominent contributor to the nation's coal industry, Kentucky coal mines are dwindling.[i] At one time, Kentucky was the third-largest coal-producing state for years, accounting for about 10% of all U.S. coal production.[ii] Now, Kentucky accounts for about 5% of U.S. production, but contains one-fifth of all operating coal mines in the U.S.[iii] In 2009, coal mining employed 19,317 people in Kentucky.[iv] However, by the most recent count, Kentucky coal mines employ only 3,833 people. [v]

The slow death of coal mining in Kentucky presents a serious environmental challenge for the state. With one-fifth of all operating mines in the U.S. and major coal companies filing for bankruptcy in recent years, it seems more and more likely that Kentucky will be stuck doing the clean-up.[vi] Recently, the Blackjewel mine in Harlan County was forced to shut down, and Blackjewel's parent company, Revelation Energy, declared bankruptcy.[vii]





Subsequently, Revelation will terminate permits on more than 500 surface mines across the nation. [viii] It's clear that the Blackjewel mine in Harlan has not been properly reclaimed, and it seems unlikely that the company will do it.[ix] Revelation had "103 notices of non-compliances covering 182 violations" in Kentucky from the U.S. Office of Surface Mining Reclamation and Enforcement from July 2018 to June 2019.[x] At last count, Blackjewel's bond amount, used both to secure coal mining permits from the state and for the cost of reclamation, was estimated to be \$38 million short after the Kentucky Energy and Environment Cabinet reviewed just 20% of their permits in the state.[xi]

The Blackjewel mine is just one of the many abruptly shut down and improperly reclaimed mines that the state should expect in the future as the industry fades out of Kentucky. In 2020, the Department of the Interior provided Kentucky with \$11.3 million to "clean up and repurpose abandoned coal mines." [xii] While certainly "better than nothing," it seems unlikely that this amount would even cover the mess left behind by Blackjewel.

There is hope for Kentucky's growing problem. The Biden administration has outlined plans to clean up abandoned mines and create "more than 250,000" jobs in local economies reclaiming mine sites and limiting their environmental impact. [xiii] While still too early to tell how these plans will be carried out in Kentucky and across the nation, they are surely welcome. As the industry's decline continues and more companies go bankrupt, many of Kentucky's mines will have to be reclaimed by Kentucky.

[i] *Kentucky State Profile and Energy Estimates*, U.S. Energy Info.Admin. (June 18, 2020), <https://www.eia.gov/state/analysis.php?sid=KY> [<https://perma.cc/FMD9-3EG8>].

[ii] *Id.*

[iii] *Id.*

[iv] *Coal Facts: Employment Reference Table*, Ky. Energy & Env't Cabinet, <https://eec.ky.gov/Energy/News-Publications/Quarterly%20Coal%20Reports/2020-Q3.pdf> [<https://perma.cc/L7JR-FDJY>] (last visited Feb. 3, 2021).

[v] *Id.*

[vi] *Supra* note i; see Kristin Lam, *Is President Donald Trump Losing His Fight to Save Coal? Third Major Company Since May Files for Bankruptcy*, USA Today (Jul. 4, 2019, 8:20 PM), <https://www.usatoday.com/story/news/nation/2019/07/03/coal-collapse-third-company-may-files-bankruptcy/1644619001/> [<https://perma.cc/G3R3-EBWP>].

[vii] Liz Moomey, *Will Blackjewel Leave Eastern Kentuckians to Clean Up its Abandoned Coal Mines?*, Lexington Herald Leader (Jan. 14, 2021, 12:48 PM), <https://www.kentucky.com/news/state/kentucky/article248206170.html> [<https://perma.cc/PY37-FPZ3>].

[viii] *Id.*

[ix] *Id.*

[x] *Id.*

[xi] *Id.*

[xii] *Interior Provides More Than \$11.3 Million in Conservation Funding for Kentucky to Reclaim and Repurpose Abandoned Coal Mines*, Hal Rogers (Feb. 6, 2020), <https://halrogers.house.gov/2020/2/interior-provides-more-than-11-3-million-in-conservation-funding-for-kentucky-to-reclaim-and-repurpose-abandoned-coal-mines> [<https://perma.cc/9T32-PGZ6>].

[xiii] *The Biden Plan to Build a Modern, Sustainable Infrastructure and an Equitable Clean Energy Future*, Biden Harris, <https://joebiden.com/clean-energy/> [<https://perma.cc/36WY-D9FL>] (last visited Feb. 3, 2021).

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